

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ALEK SCHOTT

*Plaintiff,*

v.

Civil Action No. 5:23-cv-00706-OLG-RBF

JOEL BABB, sued in his individual and official capacity; MARTIN A. MOLINA, III, sued in his individual and official capacity; JAVIER SALAZAR; sued in his individual and official capacity; and BEXAR COUNTY, TEXAS,

*Defendants.*

**DECLARATION OF JOSHUA WINDHAM IN SUPPORT OF PLAINTIFF'S RESPONSE  
TO DEFENDANT BEXAR COUNTY'S MOTION TO DISMISS**

I, Joshua Windham, declare the following under 28 U.S.C. § 1746(2):

1. I am a United States citizen, a Virginia resident, over 18 years old, and competent to make this declaration, which I make voluntarily based on my personal knowledge.
2. I am an attorney at the Institute for Justice and I represent Plaintiff in this case.
3. On April 6, 2022, Plaintiff submitted a request under the Texas Public Information Act, Tex. Gov't Code §§ 552.001 *et seq.*, to the Bexar County Sheriff's Office through the Bexar County Open Records Requests Portal, <https://tinyurl.com/232d5mck>.
4. Right after Plaintiff submitted his request, Bexar County sent Plaintiff a message through the portal stating that it had received his request and assigning it number S004068-040622.
5. Attached as **Exhibit 2** is a true and correct copy of the correspondence history for request S004068-040622 shown in the records portal as of July 7, 2023.

6. As relevant here, Plaintiff’s request sought “incident reports . . . for all 3 officers . . . at the scene for sheriff’s office warning number E00000000751992 date 3/16/22 time 9:32am” (the incident giving rise to this lawsuit). Ex. 2 at 2.

7. On July 13, 2022, Bexar County responded to the “incident reports” portion of Plaintiff’s request by sending Plaintiff a copy of a single document titled Incident Detail Report. A true and correct copy of that document is attached as **Exhibit 3**.

8. Bexar County did not—and still has not—produced any other incident reports to Plaintiff in response to request S004068-040622.

9. On January 1, 2023, I submitted a request under the Texas Public Information Act, Tex. Gov’t Code Ann. §§ 552.001 *et seq.*, to the Bexar County Sheriff’s Office through the Bexar County Open Records Requests Portal, <https://tinyurl.com/232d5mck>.

10. Right after I submitted my request, Bexar County sent me a message through the portal stating that it had received my request and assigning it number S005550-012323.

11. Attached as **Exhibit 4** is a true and correct copy of the correspondence history for request S005550-012323 shown in the records portal as of July 7, 2023.

12. As relevant here, part (1) of my request sought “Records in any format (written, digital, audio, video) associated with Incident #BCSO-2022-0082748 on March 16, 2022),” an express reference to the incident on which the Incident Detail Report was based.

13. On February 7, 2023, Bexar County responded to part (1) of my request by sending two documents: the Incident Detail Report attached as Exhibit 3, and the Bexar County Sheriff’s Office Manual of Policy and Procedure.

14. Bexar County did not—and still has not—produced any other incident reports to me in response to request S005550-012323.

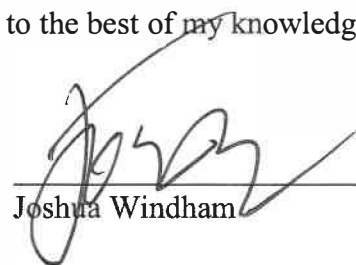
15. Plaintiff's Original Complaint, ECF No. 1, references the "incident report" in two places, paragraphs 93 and 183(t). As used in Plaintiff's Original Complaint, "incident report" means the document attached as Exhibit 3.

16. Prior to filing this lawsuit, neither Plaintiff nor I ever received the document titled SPEARS Incident Summary: BCS220059233, filed at ECF No. 13-1, from Bexar County through any channel.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge.

Executed this 18<sup>th</sup> day of July, 2023.

By:

  
Joshua Windham